

PUBLIC HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
APPLICATION FOR CERTIFICATION)
FOR A SMALL POWER PLANT EXEMPTION) DOCKET NO.
MODESTO IRRIGATION DISTRICT ELECTRIC) 03-SPPE-01
GENERATION STATION PROJECT (MID))
)

MODESTO IRRIGATION DISTRICT HEADQUARTERS
1231 ELEVENTH STREET
BOARD ROOM
MODESTO, CALIFORNIA

FRIDAY, MAY 16, 2003

2:07 P.M.

Reported by:
James A. Ramos
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

James D. Boyd, Commissioner & Presiding Member

Robert Pernel, Commissioner & Association Member

HEARING OFFICER, ADVISORS

Stanley Valkosky, Hearing Officer

Michael Smith, Advisor to Commissioner Boyd

E.V. (Al) Garcia, Advisor to Commissioner Pernel

STAFF PRESENT

Dr. James W. Reede, Jr. MPPA, Project Manager

Bill Westerfield, Staff Counsel

Roger Johnson

Roberta E. Mendonca

Robert Haussler

Ila Lewis

Michael Kroler

Steve Bowman

ALSO PRESENT

Susan Strachan, Principal
Strachan Consulting

John L. Carrier, Senior Project Manager
CH2MHill

Steven C. Hill, MID Project Manager
Modesto Irrigation District

Joy A. Warren, Staff Attorney
Modesto Irrigation District

Roger Van Hoy

Chris Mayer

Mike Kreamer

Jan Ennenga, Executive Director
Manufacturers Council of the Central Valley

Pat Mickelson, Mill Manager
Fox River Paper Company

Leon Compton, City Administrator
City of Ripon

Matt Machado, City Engineer
City of Ripon

Paul Fanelli, Vice President Human Resources
Patterson Frozen Foods

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P R O C E E D I N G S

2:07 p.m.

PRESIDING MEMBER BOYD: Good afternoon,
I'm Commissioner Jim Boyd, California Energy
Commission and chair of the Siting Committee, and
I think the first thing we are going to do is go
through introductions of the committee, then the
applicant and staff.

UNIDENTIFIED SPEAKER: The microphone is
not working.

COMMISSIONER BOYD: The microphone is
not working. Well --

COURT REPORTER: Testing, testing.

PRESIDING MEMBER BOYD: That's a mute
button.

UNIDENTIFIED SPEAKER: I'm glad I'm not
the only one who has a problem with speakers.

PRESIDING MEMBER BOYD: The next
alternative is to turn it up a little bit if that
is not working and repeat. I'm Commissioner Jim
Boyd, presiding member of this committee to
consider the application for a small power plant
exemption.

The first thing I want to do, though, is
go through introductions so everybody knows who is

1 talking to them and who is a participant in this.
2 First, I'll let the members up here introduce
3 themselves, and then I like to go through and have
4 the applicant and the staff at the table, our
5 public advisor, Roberta is here somewhere -- there
6 she is, and then other intervenors, participants,
7 and agencies who intend to be participants in this
8 exercise.

9 We would ask that you introduce
10 yourself, and then we will move on through some of
11 the procedural background before I turn it over to
12 the hearing officer. Again, I'd like to turn to
13 my associate, who is the other commissioner who
14 sits on this committee.

15 COMMISSIONER PERNELL: Good afternoon,
16 my name is Commissioner Robert Pernell, I'm the
17 associate member on the committee, and I'm glad to
18 be here. This is the first time I've seen myself
19 on the flat screen, so that is always exciting.

20 MR. GARCIA: I'm Al Garcia, I'm
21 Commissioner Pernell's advisor at the Energy
22 Commission.

23 PRESIDING MEMBER BOYD: Stanley, how
24 about you?

25 HEARING OFFICER VALKOSKY: My name is

1 Stan Valkosky, I'm the hearing officer assigned to
2 assist the committee and render legal assistance
3 in this case.

4 MR. SMITH: My name is Michael Smith,
5 I'm advisor to Commissioner Boyd.

6 PRESIDING MEMBER BOYD: Let's move on
7 down to the staff table.

8 DR. REEDE: Good afternoon, Commissioner
9 Boyd and members of the public. My name is Dr.
10 James W. Reede, Jr., I'm the Energy Facilities
11 Siting Project Manager on this particular
12 proceeding. I have with me Mr. William
13 Westerfield who is staff legal counsel assigned to
14 this case.

15 We also have in the audience Mr. Roger
16 Johnson, who is the Siting Office Manager.

17 PRESIDING MEMBER BOYD: Raise your hand,
18 Roger. Okay.

19 DR. REEDE: Mr. have Mr. Robert
20 Haussler, who is Environmental Office Manager and
21 a number of members of staff including the
22 Compliance Project Manager, Ms. Ila Lewis. We
23 have Mr. Michael Kroler, our Soils and Water
24 Engineer, Mr. Steve Bowman -- oh, there he is, our
25 Geo and Paleontology Engineer, and I do not see

1 any other staff unless somebody is hiding.

2 PRESIDING MEMBER BOYD: Thank you, Mr.
3 Reede. Applicant.

4 MR. HILL: Good afternoon, my name is
5 Steve Hill, I'm the Project Manager of this
6 project for Modesto Irrigation District. To my
7 immediate left is Joy Warren, our staff attorney.
8 To her left is Susan Strachan, our environmental
9 consultant with Susan Strachan Consulting.

10 I would also just like to introduce a
11 couple of people in the audience. We've got a
12 couple of our assistant general managers, Roger
13 Van Hoy is the Assistant General Manager for
14 Electric Resources. Chris Mayer, kind of in the
15 back, is the Assistant General Manager of
16 Marketing and Planning. I appreciate those
17 gentlemen being here.

18 Mike Kreamer, kind of in the back, is
19 Manager of Electric Resources. Just a couple of
20 the city officials from the City of Ripon, we've
21 got -- there he is, Leon Compton, the City
22 Administrator for the City of Ripon and Matt
23 Machado, the City Engineer. Thank you.

24 PRESIDING MEMBER BOYD: Thank you.
25 Roberta, our public advisor, do you want to

1 introduce yourself.

2 MS. MENDONCA: Thank you very much. My
3 name is Roberta Mendonca, and I'm the Energy
4 Commission's Public Advisor, which is a very
5 unusual role for state agencies to have somebody
6 who serves strictly for the purpose of assisting
7 the public with their questions about how to
8 participate in our process. When it is
9 appropriate, I would like to explain to the
10 Committee what we have done so far in my office on
11 this project. Thank you.

12 PRESIDING MEMBER BOYD: Thank you. Are
13 there any intervenors or other participants or
14 agencies who want to identify themselves because
15 you will be involved in today or in any future
16 transactions or meetings on this subject? Seeing
17 none step forward, then we will move on.

18 I would like to give just a little
19 background and then turn to Mr. Valkowsky and let
20 him conduct the rest of today's meeting for us.
21 This is the first public event conducted by this
22 Committee as part of the Energy Commission's Small
23 Power Plant Exemption Proceedings on the Modesto
24 Irrigation District Electric Generating Station.

25 Notice of today's hearing was sent to

1 all parties, adjoining land owners, interested
2 government agencies, and other individuals on May
3 1 of this year. In addition, notice of today's
4 event was published in the local newspaper.

5 Documents pertinent to today's hearing
6 include a staff issued identification report as
7 well as a proposed schedules filed by staff and
8 applicant on both May 9 and May 14 respectively,
9 and then in addition, yesterday, CEC Staff filed
10 an addendum to its issued report, an applicant
11 filed a request for more time to respond to data
12 requests as well as an objection to part of the
13 staff's data request. These are all procedural
14 things that have to be dealt with.

15 With that, I am going to turn the
16 meeting over to Mr. Valkowsky, who will take you
17 through the purpose and procedures and what have
18 you for today's hearing.

19 HEARING OFFICER VALKOWSKY: Thank you
20 Commissioner Boyd. The purpose of today's hearing
21 is to provide a public forum to discuss the
22 proposed project, to describe the Energy
23 Commission Exemption Process, and to identify the
24 opportunities for public participation in this
25 process.

1 As most of you know, we've already held
2 a visit to the project site preceding the
3 beginning of this hearing.

4 The purpose of today's hearing --
5 today's events are the first in a series of
6 Committee sponsored events, which will extend over
7 the next few months. Commissioners conducting
8 this proceeding will eventually issue a proposed
9 decision containing their recommendation on
10 whether the proposed project should be exempted
11 from the State's normal licensing process.

12 For this project to qualify for what we
13 call a small power plant exemption, the Commission
14 must be able to find that no substantial adverse
15 impact upon the environment or energy resources
16 will result from construction or operation of the
17 proposed power plant.

18 In other words, in this SPPE process,
19 the Commission does not determine whether to
20 license a proposed project, but rather determines
21 whether or under what circumstances and conditions
22 the project can qualify for an exemption from the
23 State's normal licensing process. I am sure staff
24 will touch upon this distinction a little later.

25 If an exemption is granted, applicant

1 will still need to secure appropriate licenses and
2 permits from the various local state and federal
3 agencies which may have jurisdiction over this
4 project.

5 I would also like to remind everyone
6 that it is important to note, at the Committee's
7 recommendations must, by law, be based solely on
8 the evidence contained in the public record.

9 During the course of today's hearing, we
10 will proceed in the following manner. First,
11 Commission staff will provide an overview of the
12 Commission's small power plant exemption process
13 and its role in assessing the proposed MID
14 Project.

15 Next, Roberta Mendonca, the Commission's
16 Public Advisor, will briefly explain how to obtain
17 information about and participate in the exemption
18 process. The applicant will then describe the
19 proposed project and explain its plans for
20 developing the project site.

21 Upon completion of these presentations,
22 other parties, interested agencies, and members of
23 the public may ask questions or offer public
24 comment.

25 Following these informational

1 presentations, we will turn to a discussion of
2 scheduling and other matters addressed in the
3 issue identification report proposed schedules and
4 the other papers filed by applicant and staff that
5 Commissioner Boyd mentioned earlier.

6 Initially, I would like to note that the
7 SPPE Review incorporates requirements equivalent
8 to those used for an initial study under the
9 California Environmental Quality Act and examines
10 relevant engineering environmental aspects of the
11 proposed project.

12 In our process, every meeting, hearing,
13 or other event sponsored by the Commission must be
14 noticed and open to the public and must allow the
15 public to comment and participate. You will have
16 ample opportunity to make your points of view
17 known and to comment upon the proposed project.

18 These rights, however, also mean that,
19 as Ms. Mendonca will explain to you, you will not
20 necessarily assume the burden of the company's
21 participation.

22 Finally, you can expect that all
23 decisions made in this case, including whatever
24 the final recommendations are, will be made solely
25 on the basis of the public record. To insure that

1 this happens and to preserve the integrity of the
2 Commission's process, Commission regulations and
3 the California Administrative Procedures Act
4 expressly prohibits off the record contacts
5 concerning substantive matters between he
6 participants in this proceeding and the
7 Commissioners, their advisors, and me.

8 This prohibition is known as the ex
9 parte rule, this means that all contacts between a
10 party to this proceeding and Commissioners Boyd
11 and Pernell, and their staff, concerning a
12 substantive matter, must occur in the context of a
13 public discussion, such as we are having today, or
14 in the form of a written communication distributed
15 to all parties.

16 The purpose of this rule is to provide
17 full disclosure to all participants of any and all
18 information, which may be used as a basis for any
19 future decision.

20 If there are no questions on what I have
21 just covered, we will begin the presentations. In
22 the interest of time, I'd ask the members of the
23 public to please hold the questions and comments
24 until the end of a particular party presentation.

25 Okay. With that, Mr. Reede.

1 DR. REEDE: Good afternoon, ladies and
2 gentlemen. As I said earlier, my name is Dr.
3 James Reede, I'm the Energy Facilities Siting
4 Project Manager for the Modesto Irrigation
5 District's Electric Generating Station in Ripon.

6 We typically use a number to identify
7 each of the projects. In this particular case, it
8 has been assigned the number 03, for the year
9 2003, SPPE-01.

10 Now, in the small power plant exemption
11 proceeding, there are relationships between the
12 different parties involved. In this particular
13 case, and I'm going to ask you to look up at the
14 screen, we have our Siting Committee, which
15 consists of Commissioner Boyd, as presiding
16 member, and Commissioner Pernell, as the associate
17 member.

18 We also have siting staff, which is an
19 independent party to the proceeding. We have, as
20 introduced previously, Mr. Steven Hill, who is the
21 Project Manager for the Modesto Irrigation
22 District, our various local, state, and federal
23 agencies, and intervenors.

24 Intervenors are participants in the
25 siting case and Ms. Mendonca will explain how to

1 become an intervenor a little bit later.

2 Of course, we have the public, under the
3 California Environmental Quality Act, we are
4 required to perform outreach and take public
5 comment.

6 The Energy Commissions Siting for power
7 plants, we have the permitting authority for any
8 thermal power plant 50 MW or greater and the
9 related facilities, such as the transmission
10 lines, the water supply systems, the natural gas
11 pipelines, the waste disposal facilities, and
12 access roads.

13 The small power plant exemption, under
14 the Public Resources Code Sec. 25-5-51 as states,
15 its commission may exempt thermal power plants
16 with a generation capacity of up to 100 MW and
17 modifications to existing generating facilities
18 that do not add capacity in excess of 100 MW.

19 If the Commission finds that no
20 substantial adverse impact on the environment or
21 energy resources will result from the construction
22 and operation of the proposed facility or from the
23 modifications.

24 The small power plant exemption process
25 is different from the application for

1 certification, our normal method of licensing a
2 power plant, since the Energy Commission will not
3 certify the project, but rather exempt the project
4 from the certification process.

5 If an exemption is granted in this
6 particular case, the applicant will need to secure
7 the appropriate licenses or permits from the
8 various local, state, and other federal agencies,
9 such as Department of Toxics and Substance
10 Control, the City of Ripon, San Joaquin County,
11 and other federal agencies as may be appropriate.
12 The Energy Commission, however, is the lead agency
13 under the California Environmental Quality Act.

14 In the small power plant exemption
15 process, we have to determine, and the Committee
16 has to find, that the project will have no
17 unmitigated adverse impacts on the environment and
18 that there are no unmitigated adverse impacts on
19 energy resources.

20 The Energy Commission, as I said, is the
21 lead agency under the California Environmental
22 Quality Act. This process is an exemption, not a
23 permit or license to build.

24 Modesto Irrigation District will have to
25 apply for the appropriate licenses from various

1 local, state, and federal agencies, and those
2 agencies will typically use the California Energy
3 Commission's CEQA document. I hate to talk in
4 acronyms, but the California Environmental Quality
5 Act document, when they issue their respective
6 permits.

7 In our evaluation under the California
8 Environmental Quality Act, we will prepare an
9 initial study. The basis for this study will be
10 an environmental check list form, which is
11 contained in the CEQA guidelines. We will hold
12 public workshops such as we did this morning. We
13 had a Data Request Workshop and Issues Resolution
14 Workshop this morning.

15 Our documentation of our study and
16 analysis will include a draft initial study which
17 will be open for public comment. Once those
18 comments are received, we will then issue our
19 final initial study to the Committee. The
20 Committee will have the presiding members proposed
21 decision, and then the full Commission will vote
22 to grant the exemption or not.

23 Now, the small power plant exemption
24 process also uses a different format of analysis
25 from that used in the normal application

1 certification process. For any small power plant
2 exemption, staff prepares an initial study, as I
3 just explained, then it evaluates whether the
4 project will result in any significant
5 environmental impacts. We identify mitigation
6 measures that will reduce those impacts to less
7 than significant and will establish proposed
8 conditions of exemption.

9 For the proposed conditions of
10 exemption, in many cases, input from the community
11 will steer us as to what conditions that plant is
12 granted an exemption. In one particular case,
13 which I will discuss in a minute regarding traffic
14 and transportation, both the applicant and staff
15 came to an agreement that Locust Avenue will not
16 be used for any construction or any other traffic,
17 other than emergency vehicles only. That is an
18 example of a condition of exemption that will come
19 up.

20 Staff will also use the environmental
21 check list form, as I explained earlier, as a
22 guideline for the various issues that will be
23 examined in the initial study.

24 We have to coordinate very closely with
25 various local, state, and federal agencies, for

1 example, San Joaquin County Planning Department,
2 San Joaquin Environmental Health Management, City
3 of Ripon, and the San Joaquin Public Works
4 Department.

5 Some of the regional include the Valley
6 Air Pollution Control District. Some of the state
7 agencies include the Department of Fish and Game,
8 Air Resources, Regional Water Quality Control
9 Board, Department of Toxics and Substance Abuse,
10 and a couple of other ones. Substance abuse?

11 (Laughter.)

12 DR. REEDE: Okay. Department of Toxics
13 and Substance Control. As far as some of the
14 federal agencies, the Environmental Protection
15 Agency, the U.S. Fish and Wildlife Service, and if
16 necessary, the U.S. Army Corp or Engineers.

17 As I said, the exemption process is
18 different from the normal application for
19 certification process, which normally takes a
20 year. This has to be completed in 135 days. I'm
21 not going to read through all of them, but 0 to 45
22 days is our discovery period where we ask
23 questions, where we get clarifications. We have
24 our information hearing and our site visits and we
25 hold workshops.

1 In the period of 46 to 90 days, we are
2 doing our analysis because we've gotten that
3 response back from the applicant to be able to do
4 our analysis, and we will issue our draft initial
5 study. We'll come back into the community, hold
6 workshops so that everybody understands what we
7 have done, and collect inputs.

8 Once we get those inputs and comments,
9 then we will issue the final initial study. Under
10 the regulations, the Committee has to hold
11 hearings no later than 100 days from the date that
12 the application was filed, which was April 21, and
13 they will accept testimony from both staff,
14 Modesto Irrigation District, and public and agency
15 comments.

16 They will issue their decision somewhere
17 between 101 and 135 days. First they will issue a
18 proposed decision, so that the public and agencies
19 and the applicant can comment, and also, staff,
20 because if you recall, staff is an independent
21 entity to this proceeding.

22 They will then issue their decision, the
23 full Commission will vote on whether to grant the
24 exemption or not. It is then turned over to
25 Compliance where we enforce the conditions of

1 exemption and monitor construction and operations.

2 Your contacts, to be able to get issues
3 or questions answered and issues resolved, as I
4 said, my name is James Reede, and as you can see,
5 I have given you my phone number and my e-mail
6 address. There are copies of this power point
7 presentation on an outside table should you desire
8 one.

9 Stanley Valkowsky is a Commission
10 Hearing Officer, and I have given everyone his
11 phone number and e-mail address, and of course,
12 Ms. Roberta Mendonca, the Public Advisor, you have
13 her information.

14 The staff issues an identification
15 report are basically -- is basically to inform
16 participants of the potential issues. It has a
17 very early focus, where we basically raise the
18 flag to let you know what we think may be issues
19 of concern.

20 It is not limiting, it is just that
21 these caught our eye early, and we need to inform
22 the Committee of the potential for, I don't want
23 to say a show stopper necessarily, but issues of
24 concern that need to be resolved in a timely
25 manner.

1 We use environmental check list forms,
2 and there are copies of the Issue Identification
3 Report on the table and of the addendum. We use
4 the environmental check list form, and we have to
5 insure that there are no impacts on the
6 environment or energy resources of the community
7 to which this power plant would be placed.

8 There were four potential issue areas
9 for the power plant. They were aesthetics or
10 visual resources, air quality, hydrology and water
11 quality, and traffic and transportation.

12 For the aesthetics potential issues, we
13 held a Data Request Workshop this morning. We
14 addressed the air quality issues, and it appears
15 that this potential issue will go away. You had
16 the potential for visible plums from emission
17 stacks, nighttime lighting, landscaping, and views
18 from nearby residences.

19 Information was provided by the
20 applicant and by the City of Ripon as to what the
21 development would be, and the issue is now
22 considered less than potentially significant.

23 The air quality potential issues that we
24 had raised when this was issued were the air
25 emissions from construction activities, from

1 operation activities, the adequacy of proposed
2 mitigation, the cumulative air impact analysis,
3 and the responses that the applicant has promised
4 to give us.

5 The resolutions to the questions that we
6 had were, for the most part, all answered during
7 the Data Request Workshop, bringing it down below
8 a level of significance. We feel confident that
9 this potential issue is going to go away.

10 The hydrology and water quality
11 potential issues are of concern due to the impacts
12 or the potential impacts on the City of Ripon's
13 Waste Water Treatment Plant. Now, this was the
14 subject of the addendum to the Issues
15 Identification Report that was issued yesterday.

16 We received a letter from the Regional
17 Quality Control Board that the applicant faxed to
18 us this past Tuesday. This was after the Issues
19 Identification Report had been issued, and the
20 problem or the potential issue is the report of
21 waste discharge.

22 Apparently, there is some confusion
23 between the Regional Board and what the Modesto
24 Irrigation District is proposing, and we have to
25 evaluate the magnitude of that particular issue

1 which is on-going.

2 We have issued data requests, and there
3 is additional information going to be provided by
4 the Modesto Irrigation District. However, this
5 potential issue has -- well, this issue has the
6 potential of delaying the project. We will work
7 diligently to try to resolve it to below a level
8 of significance.

9 We have given potential resolutions in
10 our Issue Identification Report Addendum to remove
11 it all together. One recommendation is zero
12 liquid discharge. Nothing would be going into the
13 City of Ripon's waster water system.

14 Another potential issue is to treat all
15 waste water so that it comes below the level of
16 significance prior to discharge into the City of
17 Ripon's system.

18 The traffic and transportation issues,
19 traffic associated with construction activities
20 may impact or exacerbate traffic congestion. As I
21 said earlier, the applicant has agreed to a
22 condition of exemption that there will be no
23 construction traffic or operational traffic on
24 Locust, which is immediately adjacent to the
25 community center areas.

1 The other issue is right at the
2 intersection of Highway 99 and, I believe, it is
3 Second Avenue and Stockton Avenue. In the data
4 responses, we will hopefully have that issue put
5 to rest.

6 The final slide is a proposed schedule.
7 This schedule was drafted to insure a Commission
8 decision whether positive or negative within 135
9 days. However, as Commissioner Boyd pointed out,
10 the applicant has requested an extension on filing
11 the data responses, which will, if they take the
12 additional ten days that they have asked for, will
13 kick this schedule out the appropriate number of
14 days.

15 HEARING OFFICER VALKOSKY: Dr. Reede, we
16 will discuss the scheduling aspects later. Okay.

17 DR. REEDE: Okay. Thank you. That
18 concludes my remarks.

19 HEARING OFFICER VALKOSKY: Thank you.
20 I've just got a couple of questions of
21 clarification. Does Staff consider the conversion
22 of agricultural lands to be an impact as
23 apparently does the San Joaquin County Community
24 Development Department in their May 7 letter?

25 DR. REEDE: We consider it to be an

1 impact, but whether or not it rises to the level
2 of significance, is different.

3 HEARING OFFICER VALKOSKY: Okay, but
4 that will be something that is addressed?

5 DR. REEDE: That is addressed and
6 comments were also supposed to be sent from the
7 San Joaquin Public Works Department that we have
8 not received yet, also from the San Joaquin County
9 Environmental Health Department, those had also
10 not been received as of this point.

11 HEARING OFFICER VALKOSKY: Okay. One
12 further question, and feel free to rely on your
13 attorney to help you with it, you have basically
14 said that the Staff assessed the Staff Study, is
15 the CEQA equivalent of an Initial Study, correct?

16 DR. REEDE: Yes.

17 HEARING OFFICER VALKOSKY: Follows the
18 CEQA Initial Study.

19 DR. REEDE: Correct.

20 HEARING OFFICER VALKOSKY: Is it then
21 fair to view a Committee decision, potentially, as
22 a mitigated negative declaration?

23 DR. REEDE: Yes, that is correct. The
24 Committee decision would have the equivalency at
25 let's say the county level of a mitigated negative

1 declaration.

2 HEARING OFFICER VALKOSKY: Okay. In
3 deciding whether to issue a mitigated negative
4 declaration, as opposed to a full blown
5 environmental impact report, in other words, our
6 usual AFC standard, what standard do you apply?
7 Do you apply the fair argument standard that is
8 used in a --

9 DR. REEDE: With CEQA?

10 HEARING OFFICER VALKOSKY: -- CEQA case,
11 yeah?

12 DR. REEDE: I could say yes or no, but
13 I'm going to turn to my attorney.

14 MR. WESTERFIELD: I'm afraid his
15 attorney can't answer that question at the moment,
16 so we can look into that and get back to you.

17 HEARING OFFICER VALKOSKY: I would
18 appreciate it because I think it is important, and
19 I would certainly welcome the applicant to look
20 into it too because my understanding, under the
21 fair argument standard, is that in deciding to
22 prepare a negative declaration, the agency cannot
23 prepare a negative dec if there is a fair argument
24 to be made based on substantial evidence that
25 there will be a significant environmental impact.

1 Again, a fair argument is different from
2 preponderance of the evidence, which is what we
3 are used to in our AFC proceedings. If the
4 attorneys could address that, I think it would
5 assist everyone in getting off on the right foot
6 in this process.

7 MR. WESTERFIELD: Yes. Mr. Valkosky, I
8 guess for clarification, so that people are not
9 used to -- for clarification for those who may not
10 be used to these standards, the fair argument
11 standard would be a standard that would have a
12 lower threshold of evidence than a preponderance
13 of the evidence standard.

14 HEARING OFFICER VALKOSKY: Correct.

15 MR. WESTERFIELD: An easier test to
16 meet.

17 HEARING OFFICER VALKOSKY: Fair argument
18 would, to my understanding, apply even -- well, it
19 could apply simpler if there are conflicts between
20 experts, where as normally we would attempt to
21 resolve that conflict, if a conflict exists that
22 could meet the fair argument standard and would
23 have to go to a more extensive environmental
24 review.

25 Before we move off, is two weeks

1 sufficient time, Mr. Westerfield, Ms. Warren?

2 MS. WARREN: Two weeks?

3 HEARING OFFICER VALKOSKY: Yeah, is that
4 sufficient?

5 MR. WESTERFIELD: That's fine with
6 Staff.

7 MS. WARREN: That's fine with us.

8 HEARING OFFICER VALKOSKY: Okay.

9 DR. REEDE: Just for clarification, you
10 are saying two weeks from now, staff counsels for
11 both the applicant -- the two counsels will be
12 required to file a brief on whether this should be
13 a fair argument standard or a preponderance?

14 HEARING OFFICER VALKOSKY: A brief
15 explaining the standard that is used, and I think
16 those are the standards that are relevant. A fair
17 argument --

18 DR. REEDE: And the pros and cons?

19 HEARING OFFICER VALKOSKY: -- of fair
20 argument or preponderance. You know, I think the
21 Committee would be interested in what the wisdom
22 of the parties is concerning the applicable law.
23 Okay. Any further questions? Anything else from
24 the staff?

25 DR. REEDE: No. Thank you for the

1 opportunity to make this presentation,
2 Commissioner Boyd and Hearing Officer Valkosky.

3 HEARING OFFICER VALKOSKY: Any questions
4 from the audience for Dr. Reede on the staff
5 presentation? Thank you. Ms. Mendonca?

6 MS. MENDONCA: I don't need the dark, so
7 people can come back into the light if you would
8 like to have them.

9 Good afternoon, my name is Roberta
10 Mendonca, and as I said in my opening remarks, I
11 have quite a unique role in the Energy Commission
12 Siting Process because unlike the Commissioners
13 that who are here today as the Committee and the
14 decision makers or the staff who have the
15 responsibility to provide an independent analysis
16 of the project, I'm simply a person to assist
17 members of the public who want to participate and
18 understand what that process is and help you
19 through that little discussion that just took
20 place.

21 Should you want to talk about the
22 implications of whether there is a fair standard
23 or a substantial evidence standard, my office is
24 glad to assist you with that. Really my report
25 today will have two parts. One is to talk to you

1 about the opportunities for public participation,
2 and the other part will be to inform the Committee
3 about steps my office has taken to date to assist
4 the public in participating.

5 Pretty much if you want to participate,
6 you might want to know where you can take a look
7 at the application, which is the information
8 provided by the applicant explaining what they
9 want to do in this project.

10 We have seen that the application is
11 available in five local libraries, the Solito
12 Library, Manteca Public Library, the Modesto
13 Junior College Library, the Modesto/Salinas
14 Central Library, and the Ripon Public Library.

15 My office has hours of availability for
16 the opening, when the libraries are open, as well
17 as the availability of computers, should you wish
18 to look for information on this project via the
19 Energy Commission's website.

20 With that, our website is
21 www.energy.ca.gov/sitingcases/Ripon. That will
22 give you up to date project information about this
23 project, including documents that are filed in the
24 case.

25 You also can -- I tried on the site

1 visit to talk with individuals to find out if you
2 had already received notice of our meeting. If
3 you didn't get notice already, there is a sign in
4 sheet out on the hall entry table where you can
5 give me your name or your e-mail, and we will see
6 to it that your names are added to the notice
7 list, so you receive future notices of all
8 meetings.

9 The docket unit located at the Energy
10 Commission also has a copy of all the documents
11 that are filed in this case.

12 You heard a bit about the workshop that
13 took place this morning, and I wanted to explain
14 that today's meeting is a hearing. It is an
15 informational hearing, and it's slightly formal,
16 we have the Commissioners here, and it is being
17 transcribed. Your comments will be formally
18 entered into the transcript of today's meeting.

19 The workshops are not transcribed, they
20 are more or less, less formal, roll up your
21 sleeves, come in, and make your comments. Only
22 the Staff participates in the workshops. That is
23 a basic difference in the notices you receive.

24 A Notice of Hearing involves the
25 Commissioners and involves a formal meeting, while

1 staff workshops are much more informal and you can
2 drop in and make your comments to the staff.

3 It was mentioned that there are types of
4 participation in the Energy Commissions process.
5 Informally, you are welcome to come, as I said, to
6 the workshops or to the hearings, and come to the
7 microphone, fill in a blue card, let us know you
8 want to speak, and make your comment.

9 You can offer your opinion, your
10 perspective, how you think about this project
11 informally. If it is something you want to put in
12 writing, you can send it to the committee and we
13 will see that gets docketed.

14 Additionally, it was mentioned that you
15 can intervene in Energy Commission proceedings.
16 That is a formal process with a petition. The
17 public advisor would be glad to assist you with
18 that project, but one nice thing about the small
19 power plant exemption is, it is not required that
20 you do petition to intervene in order to
21 participate in the case.

22 I suspect that came about because the
23 timeline is limited to the 135 days, and so
24 intervention usually implies a longer time period.

25 If anybody would like to enter the

1 process of intervention, please do contact me. I
2 would be glad to assist you with that project.

3 Now to explain to the Committee what my
4 office did to provide outreach on this project.
5 Let me get my notes. First of all, we prepared a
6 one page project description which is a simple
7 hand out, easy to walk away with, and kind of have
8 the salient points of what is going on, on the
9 project, how to contact the Energy Commission, and
10 how to contact the public advisor.

11 We did outreach to the local school
12 district which is a way that we try to work to get
13 a wide dissemination of the information hearing,
14 and it's not too uncommon. This particular school
15 district, the Ripon School District did not allow
16 us to send home notes with their school children,
17 however we sent 200 fliers announcing today's
18 meeting to the Christian Elementary School. They
19 had no problem, they're not a part of the Ripon
20 School District, so they gladly disseminated our
21 fliers.

22 We sent 3,500 project descriptions and
23 fliers to the Ripon Record, who distributed that
24 in their May 14 addition, so that this workshop
25 was widely noticed locally.

1 We also sent six local churches an
2 information flier to be posted on their bulletin
3 board to announce today's hearing, and we also
4 notified the local Chamber of Commerce to discuss
5 with them the opportunity to distribute
6 information to their members.

7 That pretty much summarizes our outreach
8 for this project, and I look forward to working
9 with other members of the audience who would like
10 to be public participants. Thank you very much.

11 COMMISSIONER PERNELL: Thank you.

12 HEARING OFFICER VALKOSKY: Thank you,
13 Ms. Mendonca. Are there any questions on public
14 participation from any member of the audience?

15 (No response.)

16 HEARING OFFICER VALKOSKY: Mr. Hill,
17 applicants presentation, please?

18 MR. HILL: Good afternoon. My name is
19 Steve Hill, and I'm the Project Manager for
20 Modesto Irrigation District. I want to take just
21 a few minutes to give you a little bit of
22 background on the Modesto Irrigation District, and
23 the MEGS Project.

24 First of all, maybe a word on MEGS.
25 MEGS is kind of an erroneous acronym. It would

1 probably be more accurate to call it MEDEGS, but
2 that sounds a little strange, so we called it
3 MEGS, the "M" being for Modesto Irrigation
4 District, the "E" for Electric, the "G" for
5 Generation, and "S" for Station. That name has
6 kind of just stuck, so we refer to this project as
7 simply MEGS.

8 A little bit of history on the Modesto
9 Irrigation District, it was a municipal utility
10 created in the late 1800's, about 1887. C.W.
11 Wright was quite a famous attorney, and introduced
12 some legislation known as the Wright Act that
13 created irrigation districts. With that, shortly
14 after, the Modesto Irrigation District was
15 founded.

16 I'd like to say, the wealth of
17 California, having worked for Intel in Silicon
18 Valley, I can attest, that although chips create
19 great wealth in California, the wealth of the
20 water and the agriculture in this area, is the
21 wealth of California. That was created with Mr.
22 Wright.

23 We provide irrigation water to farmers,
24 and I believe there's over 3,000 farmers we
25 provide irrigation water to. We began producing

1 electricity in 1923, and then opened up our water
2 treatment plant and began providing domestic water
3 to the City of Modesto in 1994.

4 On the bus, I had a question of what is
5 the size of your service territory. While we
6 started providing electricity to Modesto in 1993,
7 we also provide electricity to about half those to
8 Stanilaus County, also portions of Ripon, Escalon,
9 Oakdale, and Riverbank, and the new Mountain House
10 Community. We will be serving that area.

11 We have about, as I recall, of course
12 Mr. Mayer here, and Chris, correct me if I am
13 wrong, I believe somewhere roughly between 90 and
14 100,000 electric customers. Is that number still
15 pretty accurate?

16 MR. MAYER: Correct. Slightly over
17 100,000.

18 MR. HILL: Thank you. The decision to
19 develop MEGS -- well, as our base load is roughly
20 is 300 MW, however our peak load is up to about
21 620 MW, and that is expected to double over the
22 next -- by the year 2020.

23 There became a need to increase our
24 local generation, although MID, as I said,
25 produces a large amount of -- purchases a large

1 amount of power. We like to produce a certain
2 amount of power for reliability needs, and
3 certainly our peaking utility and have a huge
4 peaking capability. Roughly half of our load is
5 peaking, and I will show you shortly an August
6 2005 projection of our peak load and how MEGS fits
7 into that.

8 Again, we require more local generation
9 just for our operational and reliability needs and
10 flexibility, and I believe those of you who were
11 in California in 2001 can understand the need for
12 that.

13 I escaped California for a few years, so
14 I missed that experience, but nevertheless, I was
15 in Utah. Even in Utah we felt the repercussions
16 as our utility rates doubled as a result of that
17 experience.

18 PRESIDING MEMBER BOYD: Mr. Hill, a
19 question.

20 MR. HILL: Sure.

21 PRESIDING MEMBER BOYD: The load that
22 you described as growing, can you describe the
23 division between kind of the residential load and
24 an industrial load, or is the industrial load farm
25 and industry?

1 MR. HILL: You know, if it is okay, I'm
2 going to turn to Mr. Mayer to answer that because
3 he has better data than I do off the top of my
4 head. If that is okay, Commissioner?

5 PRESIDING MEMBER BOYD: It's fine with
6 me. Thank you.

7 MR. MAYER: Good afternoon. My name is
8 Christopher Mayer, and I am Assistant General
9 Manager of Planning and Marketing for Modesto
10 Irrigation District.

11 MID's load is about equally divided in
12 thirds between residential, commercial, and
13 industrial. We have about four percent of our
14 load that is agricultural, and so that is kind of
15 in, but it is almost an even split between the
16 three traditional categories.

17 PRESIDING MEMBER BOYD: Is your
18 agricultural load been growing or falling?

19 MR. MAYER: Our agricultural load is
20 very stable because the other part of our
21 operation is our irrigation system. We deliver
22 water by gravity flow, so most of the farmers in
23 this area take their water from us by gravity flow
24 for flood.

25 Some use electricity to pressurize the

1 surface water and then use micro-sprinklers, but
2 there is not a lot of the deep well pumping that
3 you see further south in the valley in our service
4 territory because of the availability of the
5 gravity flow water.

6 PRESIDING MEMBER BOYD: Thank you.

7 COMMISSIONER PERNELL: Could I do a
8 follow up question here? Why is your peak and
9 low, if I understand your correctly here, are
10 possibly twice as high as your base load? Is that
11 what you said?

12 MR. HILL: Again, that is mainly in the
13 summertime, and it is due to air conditioning.
14 This peaking load is primary a summer peaking
15 load. Chris, do you want to add to that?

16 MR. MAYER: In addition, we have a
17 seasonal food processing load in this area. There
18 are some major food processors that process
19 tomatoes and peaches, and they operate between 70
20 and 90 days per year, starting usually in July,
21 running through August and in to September. That
22 element of load for us is approximately 50 MW, and
23 once it is operational, it goes around the clock,
24 but it just exists during that period.

25 Superimposed on top of that is our

1 commercial and residential air conditioning, so we
2 have kind of a double whammy that we deal with
3 here during the summer.

4 COMMISSIONER PERNELL: Okay. It's
5 mainly agricultural processing?

6 MR. MAYER Right. We have a lot of
7 industrial load in general, but the processing for
8 peaches, for tomatoes, and then a little later on
9 in the season, wine crushing activities create
10 some electrical loads that are of relatively short
11 duration, that, for example, would not exist at
12 this time of the year.

13 COMMISSIONER PERNELL: Thank you.

14 PRESIDING MEMBER BOYD: One more
15 question, if I might, as a small electric utility,
16 do you engage in any outreach to your customers
17 with regard to electrical efficiency measures and
18 what have you?

19 MR. MAYER: Yes, that's part of my job
20 responsibility. We have a five person energy
21 management department, and we've had energy
22 management programs in place now since the early
23 1980's. The types of programs we have, for
24 example, are traditional rebate programs for
25 replacement of residential air conditioners with

1 high efficiency units.

2 We have programs that provide rebates
3 for window replacement and shading. We have
4 probably one of the larger air conditioning load
5 control programs that has been continuously
6 operating since the early 80's. We call it the
7 "Step Program" and we have over 13,000 residential
8 air conditioners under central load control and a
9 number of commercial.

10 We also have 20 MW of our industrial
11 load participates in a load curtailment
12 interruptable program. As part of the Board
13 policy that set forth the process for the MEGS
14 Project, they also requested 13 MW of new DSM be
15 implemented over the next three years. We started
16 on that the middle of 2002, and so far we are
17 running ahead of schedule as far as our
18 implementation of that.

19 PRESIDING MEMBER BOYD: Thank you.

20 MR. HILL: Thank you, Chris. The next
21 slide shows you what I mentioned, this is a
22 projection of a peak day in August of 2005. I
23 might just call your attention to you see this
24 LM6000 Unit 2 and Unit 1. These are actually MEGS
25 Units 1 and 2, and so as you see, these two parts

1 of the graph right here, this is how those
2 operating units would tie in the mix of supplying
3 a peak load on a hot day in August of 2005.

4 COMMISSIONER PERNELL: Back on the graph
5 for some clarification for me, how many hours are
6 we talking about there?

7 MR. HILL: What's shown here is --

8 COMMISSIONER PERNELL: It's shown in --

9 MR. HILL: Yeah, so it would be the
10 period from here to here, and it is roughly -- I
11 guess it is about eight hours, it is a little hard
12 to see it on here.

13 COMMISSIONER PERNELL: Eight hours?

14 MR. HILL: Uh-hum. Per day. Again,
15 this represents one single day. Again, what this
16 says, it is a little hard to see up here. This
17 represents hour one, okay. This represents hour
18 23, so this represents a full 24 hour day, so if
19 you start about right here, that represents about
20 hour 9, and as you go to you know right in this
21 period, that is about 22, maybe a little more than
22 8.

23 COMMISSIONER PERNELL: If I am
24 understanding you, your peaking capacity started
25 about 9:00 in the morning?

1 MR. HILL: Hour 9, I think, represents -
2 - no, I don't think it necessarily refers to that.

3 COMMISSIONER PERNELL: Okay. I don't
4 have my glasses, so I can't read all of that.

5 MR. HILL: Please understand, this graph
6 doesn't necessarily show specific hours of day.
7 "1" doesn't necessarily correspond to 1:00 in the
8 morning and go forward. It just represents a
9 typically slice of time.

10 COMMISSIONER PERNELL: All right, that's
11 fine. Thank you.

12 MR. HILL: Again, how is MEGS selected.
13 There are three primary reasons. One, it was
14 selected because of operational flexibility.
15 Commissioner, we talked on the bus a little bit,
16 this is a peaking plant, and we need it peaking
17 capacity, so the plant was designed to meet
18 peaking needs.

19 We felt that the site was
20 environmentally acceptable, it's an industrial
21 zone, it's close to transmission, it is close to
22 natural gas, it is close to non potable water
23 sources, so those were primary reasons for why
24 that site was selected.

25 It is also important for me to tell you

1 that it is part of the study. We looked at 28
2 sites within a 50 mile radius, pared that down to
3 about 12 sites. Of those 12 sites, MEGS was the
4 preferred site. I should say the MEGS site in
5 Ripon is the preferred site.

6 Just a few project facts, there are 2 LM
7 6000 air derivative Sprint type units that are
8 planned for this site. The net output of those
9 two units is right around 95 MW. There will be a
10 couple of different types of air pollution control
11 on the exhaust side.

12 There is what is known as a SCR, which
13 is a selective catalytic reduction unit. It
14 basically takes out excess oxides and nitrogen,
15 which is NOX is kind of the acronym for all of
16 that. We also have a CO catalyst which removes
17 carbon monoxide.

18 All of that is continuously monitored by
19 what is referred to is a CEM System which is an
20 acronym for Continuous Emission Monitoring. We
21 need to stay in compliance with very strict
22 regulatory numbers on those air pollutants.

23 This is very difficult to see, and I'm
24 not going to say a whole lot about it. There is a
25 blown up lay out of our site, just out in the

1 foyer because this didn't come out very well,
2 where you will be able to see it. These right
3 here, these are the actual turbine units, this
4 represents gas compressors, there is a water
5 treatment facility here, and a couple of small
6 cooling towers for the mainline units right here.
7 There are some transformers here and a control
8 building.

9 As I say, this you won't obviously read,
10 but there is a blow up out in the foyer, so I'd be
11 happy after the meeting to spend any time with the
12 public if you have further questions on this.

13 What this side is, this is one of the
14 key observation points, It is in our application
15 that is taken from Vera Avenue. This is a
16 simulation of the plant that is kind of projected
17 onto the site that you just visited. This is what
18 MEGS would look like from Vera Avenue looking to
19 the east, assuming that there were no further
20 development.

21 Now, as we talked about in our workshop
22 meeting this morning, there is some planned
23 development that actually precede us that will be
24 going on in this area. As we said in the
25 workshop, we will provide a new simulation showing

1 what that might look like for the development
2 being placed in here.

3 I think at the site we also mentioned
4 the transmission line for both gas and the
5 electric line. Where we planned kind of a non
6 potable water system is just in the street that
7 you saw as well as the storm drain. It is just a
8 very short access from our site down to the middle
9 of the road where those pipes are being located
10 now.

11 I think we showed you on the site visit
12 where the transmission, electric transmission pipe
13 line would go. This is a little map, you just
14 might review that, this is the MEG site, the gas
15 line would start here about 4th Avenue on Stockton
16 Avenue and come down into our site where it will
17 be metered. The 69 KV -- I'm sorry, the
18 transmission line would leave our site and go over
19 the existing easement we have into our Stockton
20 Substation, and this is also approximately a
21 quarter of a mile.

22 COMMISSIONER PERNELL: Now, I have a
23 question on that. It is a little bit hard to see,
24 but I am looking at this diagram, and you are
25 talking about your gas compression units here.

1 How close is that to the Stockton Avenue --

2 MR. HILL: Road?

3 COMMISSIONER PERNELL: Yeah, how close
4 is that to the road, which is potentially
5 pedestrian area?

6 MR. HILL: Again, it will be metered
7 here, and Colin maybe you can help me because you
8 actually did the layout, but it is probably what
9 50 feet or 100 feet off the road.

10 MR. MCRAE: We were just talking about
11 that, I think it is probably more like 20 or 30
12 feet off the road.

13 UNIDENTIFIED SPEAKER: I believe there
14 is a set back city requirement somewhere beyond
15 that.

16 UNIDENTIFIED SPEAKER: Excuse me, you
17 have to come to the microphone because we are
18 recording the proceeding.

19 MR. HILL: If you would like to come to
20 the microphone, Colin. This is Colin McRae, our
21 design engineer with PB Power. The question was
22 asked, what is the setback off the road of the gas
23 compressors. Did I get that correct,
24 Commissioner?

25 COMMISSIONER PERNELL: Right, off

1 Stockton Avenue.

2 MR. MCRAE: My name is Colin McRae, and
3 I'm with PB Power, I'm the owner/engineer. There
4 is a city setback requirement, I believe, that is
5 10 feet, so my understanding is without measuring
6 it, it is approximately 20 to 30 feet off the
7 Stockton Avenue.

8 COMMISSIONER PERNELL: That's per city
9 code, the setback?

10 MR. MCRAE: It is more than the city
11 would require.

12 COMMISSIONER PERNELL: Thank you.

13 MR. MCRAE: Thank you.

14 MR. HILL: Just a few more things on
15 some of the environmental considerations that we
16 have already talked about. Again, the site is
17 located in an industrial area. As we went through
18 the application, we saw no significant impacts to
19 public health and safety. Of course, that is
20 going to be evaluated here over the next 135 days,
21 but our initial assessment was we couldn't see any
22 significant impacts to public health or safety or
23 to the environment.

24 The majority of the air emissions
25 credits that we have procured are from local

1 sources. We believe there are minimal biological
2 issues. Although there are an awful lot of
3 squirrels on the site. Other than that, we didn't
4 see any issue. There are minimal noise increases.

5 I actually do, for members of the public
6 who are interested, we had this at our Open House
7 last Friday, I have a noise contour map, I would
8 be happy to show you that shows the noise levels
9 radiating from the site and what you can expect.
10 I would be happy to spend time with any of you if
11 you have further questions on that if you couldn't
12 attend the open house.

13 In terms of schedule, I know we will be
14 saying more about schedule in terms of the
15 process, but just a couple of general scheduling
16 points. The CEC review process, obviously started
17 with our filing April 21, and is projected to go
18 into the beginning of September.

19 We expect, if that all goes well there,
20 that we would receive an authority to construct
21 from the Air District some time in October, and
22 would potentially break ground right after that.
23 It would be our intent -- it is our intent to
24 build this project, and if approved, with all the
25 necessary permits to get started immediately.

1 It is our desire to start construction
2 in the fall of 2003. We anticipate a nine month
3 construction period, so it would be our desire to
4 potentially be up and running towards the end of
5 next summer and be operational sometime between
6 that and spring of 2005. The reason why that
7 seems a little bit fuzzy is because there are
8 always things that come up during construction and
9 so forth.

10 There is a little bit of grace period in
11 there. We have committed to our Board of
12 Directors to have this operational spring of 2005,
13 but obviously if we can do better than that, that
14 is our strong desire. Thank you very much.

15 HEARING OFFICER VALKOSKY: Thank you,
16 Mr. Hill. Are there any questions on the
17 applicants proposal from anyone in the audience?

18 (No response.)

19 HEARING OFFICER VALKOSKY: All we have
20 left on our agenda today is a discussion focusing,
21 clarifying a little bit more of the issues that we
22 have heard, and focusing on some scheduling
23 matters.

24 The Committee understands there is some
25 personal urgency among some members of the

1 audience who would like to leave. What we will do
2 now is take public comment, so anyone that has to
3 leave may do so.

4 Please use this mike up here that Mr.
5 Hill was using to make public comment. Identify
6 yourself for the record, spell your last name, and
7 with that, Commissioner Boyd.

8 PRESIDING MEMBER BOYD: We have five
9 blue cards up here, people who have asked to
10 testify, so I will just take them more or less in
11 the order they were received. If Jan Ennenga of
12 Manufacturers Council of the Central Valley.

13 MS. ENNENGA: Good afternoon,
14 Commissioners. I'm Jan Murray Ennenga, E-n-n-e-n-
15 g-a, Executive Director of the Manufacturers
16 Council of the Central Valley. Headquartered in
17 Modesto, the Council represents a variety of
18 manufacturing interests located in California's
19 San Joaquin Valley.

20 The majority of our members are involved
21 in food processing related activities, both year
22 round and on a seasonal basis. Those members not
23 involved in food processing, manufacture
24 automotive parts, containers of various kinds, and
25 other vital components distributed nationally and

1 internationally. Several of our members are also
2 involved in warehousing and distribution.

3 We represent manufacturing companies
4 which directly employ more 50,000 San Joaquin
5 Valley residents and at approximately 75
6 facilities and create an additional 150,000
7 related jobs when using the direct affect
8 employment multiplier founded at Milken Institute,
9 August 2002 Report Manufacturing Matters,
10 California's Performance and Prospects.

11 Several of our members are located
12 within the Modesto Irrigation District's current
13 service area, and still others lie within the
14 areas proposed for future service.

15 The Modesto area has done an excellent
16 job of attracting a variety of manufacturing
17 industries, do in a large part to the ability to
18 supply reliable and affordable electric service
19 provided by MID.

20 Manufacturers Council supports MID's
21 application for a small power plant exemption up
22 to 95 MW Power Plant proposed to be located in
23 Ripon. The proposed plant will allow MID to
24 reduce its reliance on outside power generation
25 sources which translates into more dependable

1 service for local customers.

2 This also helps insulate customers from
3 the volatility of California's energy market, both
4 from a supply and price perspective. Not only
5 does this give our member companies a competitive
6 edge economically, it also minimizes the risks
7 associated with interruption of service.

8 It is critical for manufacturing
9 companies, especially those processing seasonal
10 and perishable products, to have a reliable energy
11 supply, particularly with the intense competition
12 in today's global marketplace.

13 A blip in the power supply can translate
14 in to an irreparable loss of market share. We
15 urge your careful consideration of this project
16 and support moving it forward to the next step in
17 the review process. Thank you for the opportunity
18 to comment. Good luck with your deliberations and
19 if you have any questions, I would be happy to
20 answer them.

21 PRESIDING MEMBER BOYD: Thank you.

22 COMMISSIONER PERNELL: Thank you.

23 MS. ENNENGA: Thank you.

24 PRESIDING MEMBER BOYD: Pat Mickelson,
25 Fox River Paper Company.

1 MR. MICKELSON: My name is Pat
2 Mickelson. I'm the Mill Manager at Fox River
3 Paper Company in Ripon. We are very much in
4 support of this project, we have been a customer
5 of MID since 1997. We believe it is vital to the
6 health of industry, and especially industry like
7 ours, that is very energy intensive.

8 We just look forward to moving ahead
9 with this. Actually we will be a very very close
10 neighbor, we are right adjacent to the plant. In
11 addition, we do have a gas turbine plant on our
12 property at this time, and they have proven to be
13 very good neighbors, no problem whatsoever.

14 We are urging your approval. Thank you.

15 PRESIDING MEMBER BOYD: Thank you very
16 much. Leon Compton, City Administrator, City of
17 Ripon, with whom I spent a lot of time out there
18 today.

19 MR. COMPTON: Leon Compton, spelled C-o-
20 m-p-t-o-n. I am the City Administrator for the
21 City of Ripon. I'd just like to say that our
22 city, our staff, are all available for any
23 questions that you might have.

24 We have been working with MID from the
25 very beginning of this process. We've found them

1 very good to work with, and they have been very
2 good about answering any questions we have had
3 very quickly.

4 As Pat had indicated earlier, we do have
5 a plant already in town, and I was there when that
6 plant went in at '86 or '87, and having been there
7 that long, I can attest to the fact that I have
8 never had a personal complaint, but there have
9 probably been some that have come to the city. I
10 am not aware, but they have been very good
11 neighbors.

12 We are quite comfortable, from the city
13 standpoint, with power plants in our city because
14 we know what they are like, and we are here to
15 support the application and just offer our
16 services wherever we can.

17 PRESIDING MEMBER BOYD: Thank you very
18 much. Mr. Matt Machado, City Engineer.

19 MR. MACHADO: Good afternoon, Matt
20 Machado, spelled M-a-c-h-a-d-o. I'm the City
21 Engineer for the City of Ripon. I would like to
22 comment and support the project. I would actually
23 like to thank the staff of MID that has done the
24 project development. They have done a great job.
25 They have informed us, they've really looked into

1 a lot of the issues up front.

2 They have been very assertive in looking
3 into the issues and have informed the public, and
4 I appreciate that. It reduces the amount I have to
5 inform the public, and they have very pro-active
6 and very helpful. Thank you.

7 PRESIDING MEMBER BOYD: Thank you very
8 much. Paul Fanelli, Patterson Foods. Patterson
9 Frozen Foods to be specific.

10 MR. FANELLI: Good afternoon. My name
11 is Paul Fanelli, F-a-n-e-l-l-i. I'm the Vice
12 President of Human Resources for Patterson Frozen
13 Foods. I'm here today to make a brief statement
14 of support of this MEGS project.

15 We are a processor of frozen vegetables
16 and fruits. We have over 700 local employees, one
17 third of whom live within the MID service
18 district. We are currently served by PG & E as
19 our utility, but we support this project as
20 another demonstration of MID's continuing
21 commitment to local control of local generation.

22 As we all can recall the days of
23 statewide rolling blackouts, it is essential for
24 the benefit of not only MID customers, but for all
25 users of the grid for this Commission to site and

1 approve safe, clean, efficient, reliable local
2 generation projects like this one.

3 We urge both your support of this
4 project and the granting of the small power plant
5 exemption for this station.

6 Thank you.

7 PRESIDING MEMBER BOYD: Thank you. I
8 think I just heard a commercial for public power,
9 but I am not sure.

10 (Laughter.)

11 PRESIDING MEMBER BOYD: All right. That
12 is the last of the blue cards I have. Now, is
13 there anyone else in the audience who would like
14 to come to the podium and ask any questions or
15 make a statement of any kind?

16 (No response.)

17 PRESIDING MEMBER BOYD: Okay, I guess
18 not, so we have finished that. Mr. Valkosky?

19 HEARING OFFICER VALKOSKY: Thank you,
20 Commissioner Boyd. Okay, we will now turn to the
21 issue identification part of the proceeding, which
22 I believe is going to be very brief. Dr. Reede, I
23 was wondering if you could just reiterate for
24 everyone the chief issues of concern that staff
25 has.

1 DR. REEDE: Thank you Hearing Officer
2 Valkosky. To reiterate the issues identification
3 report issues, we had air quality, which we
4 believe have all been -- well, the air quality
5 issues, we believe will all be resolved once the
6 data responses are returned.

7 There was a clear understanding at the
8 end of the Data Request Workshop Air Quality
9 Section, or segment that the applicant knew what
10 we required. The applicant volunteered at the
11 beginning of the workshop to address, I would say,
12 our major data request, and that they will or they
13 have committed to supply us a full emission
14 reductions credit that will fully mitigate all air
15 issues and that they will be redoing some modeling
16 and other things and clarifying some discrepancies
17 in the small power plant exemption.

18 Staff is confident that the applicant
19 has the where with all to complete this in a
20 timely manner so there will not be an impact to
21 the schedule.

22 Our second issue is aesthetics or visual
23 resources. The applicant brought in the planning
24 director for the City of Ripon, and he provided us
25 information that gives us the comfort level that

1 any impacts will be at a level of less than
2 significant. We still have some concerns, and the
3 applicant has agreed to provide additional photo
4 simulations that will clearly show that there
5 would be no impact on the nearby community.

6 The next issue that we had concern was
7 traffic and transportation, and the applicant very
8 quickly stated that they would not use the Locus
9 Street, which we drove down during the tour.
10 Because of the concerns of the residents that were
11 expressed to me during the open house and the
12 children running across the street.

13 The applicant has agreed to show on
14 their drawings from here on out that the auxiliary
15 gate is an emergency gate and have agreed in
16 principle to a condition of exemption that will
17 ban all traffic from the residential community.

18 The final issue relates to water quality
19 and hydrology. We are working to -- we have
20 agreed to work with the applicant to get a better
21 grasp of why the regional board issued the letter
22 that it did.

23 We still understand that there will be
24 WRD is going to need to come out from the regional
25 board, and we are hoping that it can be resolved

1 in a timely manner. Our greatest concern is of
2 the potential for significant impact regarding the
3 waster water discharge as outlined by the regional
4 Board.

5 Hopefully, we can resolve that in a
6 timely manner and move on and certify this project
7 in a timely manner.

8 Our other concern is schedule. The
9 applicant has requested a ten day delay, and that
10 is the final one.

11 HEARING OFFICER VALKOSKY: Yeah, we'll
12 get to that in a second. I just want to --

13 DR. REEDE: That concludes our four
14 issues. We do believe that at least three of the
15 four, air quality, aesthetics, and traffic and
16 transportation are resolved.

17 Water, we are going to have to work very
18 closely with the applicant, but we believe that
19 too can be resolved. We have given them potential
20 solutions because we saw an opportunity to develop
21 solutions such as zero liquid discharge or an on-
22 site treatment process so that the waste water
23 discharged into the City of Ripon's lines does not
24 further degrade the water quality.

25 HEARING OFFICER VALKOSKY: You also

1 indicated earlier that you would, in fact, address
2 the conversion of agricultural land issue in your
3 staff report.

4 DR. REEDE: Yes, we will. I had spoken
5 with our land use specialist just prior, and the
6 State Department of Conservation is going to be
7 issuing a statement regarding the conversion of
8 prime farm lands into either industrial or
9 commercial use.

10 Because this land had not been farmed in
11 such a long period of time, it makes it easier for
12 us to conclude that we will not see a significant
13 impact. However, in our analysis, we will
14 specifically address that.

15 HEARING OFFICER VALKOSKY: Okay. The
16 Committee would also like to be made aware of any
17 distinctions between this parcel and for example
18 the parcel in the Turlock/Walnut Project, which my
19 recollection is, that staff is viewing as a
20 significant, a potentially significant impact even
21 though because of the conversion.

22 From a cumulative impact perspective, is
23 there a possibility in staff's estimation of any
24 other topic areas would become topics of concern?

25 DR. REEDE: Not at this time.

1 HEARING OFFICER VALKOSKY: Mr. Hill,
2 does applicant agree with the summary that Dr.
3 Reede just provided.

4 MR. HILL: Yes, we do. I was not aware
5 of the concern you brought up, I guess, from San
6 Joaquin County on the conversion of farmland, so I
7 can't comment on that, but all the other comments,
8 absolutely, we agree wholeheartedly.

9 HEARING OFFICER VALKOSKY Thank you.

10 PRESIDING MEMBER BOYD: A question. I
11 noted in my opening remarks that there had been an
12 objection to part of the staff's data request. Is
13 this an appropriate time approach that --

14 HEARING OFFICER VALKOSKY: Yeah, I
15 think --

16 DR. REEDE: Yes, that objection has been
17 withdrawn.

18 HEARING OFFICER VALKOSKY: -- it is Dr.
19 Reede who has part of the schedule. I think I
20 would just like to get through the issues. One,
21 just for my own curiosity, Dr. Reede, I notice in
22 your issue identification report, staff had added
23 a couple of items to the CEQA check list for
24 analysis. Is that something that is typical staff
25 practice?

1 DR. REEDE: No, we didn't actually add
2 any additional items in the CEQA check list. Let
3 me go to where you are referring to specifically.

4 HEARING OFFICER VALKOSKY: Okay, I'm
5 referring to specifically page two, footnote two,
6 which reads, "Staff proposes to add two questions
7 to the environmental check list form, these
8 questions are related to environmental justice and
9 impacts on energy resources."

10 DR. REEDE: Yes, I'm going to ask Mr.
11 Roger Johnson and come up and join me at the
12 table. Relating to the need to --

13 MR. JOHNSON: I believe this footnote
14 was inadvertently brought into this particular
15 issues report from the previous issues report that
16 we issued on -- actually it wasn't an issues
17 report, it was from the initial study on the
18 previous SPPE we did. In fact, we will be
19 addressing those two items in our initial study.

20 HEARING OFFICER VALKOSKY: You will,
21 yes, but the thrust of the question was as I
22 interpret the footnote, staff is adding items tot
23 he check list. What I wanted to know is basically
24 is this normal practice and what is the authority
25 for doing that?

1 MR. JOHNSON: The CEQA check list is
2 just a suggested list of items that agencies
3 should look at when they do an initial study.
4 Each agency is allowed to add to it or delete from
5 it as they see fit.

6 HEARING OFFICER VALKOSKY: Okay, thank
7 you. Thank you for the clarification. Before we
8 turn to scheduling, anything else on the potential
9 issues?

10 COMMISSIONER PERNELL: I have a question
11 on scheduling.

12 HEARING OFFICER VALKOSKY: Anything else
13 on the potential issues from anyone in the
14 audience. With that, we'll go to the final item
15 on the agenda, scheduling.

16 I don't wish to alarm the parties, but
17 because certainly the Committee has every intent
18 in dealing with this case as expeditiously as
19 possible, but the 135 days which has been kicked
20 around earlier, in context, is an advisory date
21 and the regulation actually reads something to the
22 effect, the decision shall be made within 135 days
23 or such later time as is necessary to permit a
24 full and fair examination of the issues.

25 That 135 days is not a time period by

1 which a Committee loses jurisdiction or there is
2 anything else that happens. It is guidance, and,
3 again, of course a Committee will follow -- will
4 use that guidance and take that guidance very
5 seriously, I should say.

6 PRESIDING MEMBER BOYD: I assume from
7 your statement that means they can finish in under
8 135 days if they so choose.

9 HEARING OFFICER VALKOSKY: Believe it or
10 not, we once did one of these in 78 days. Okay,
11 turning to scheduling issues. First thing, we
12 have a request for more time from the applicant
13 and an objection to certain of Staff's data
14 requests. Ms. Strachan or Ms. Warren, Mr. Hill,
15 is that document still operative?

16 MS. STRACHAN: In terms of the extension
17 of time, we are hoping to get it done, the data
18 responses specifically for air quality within the
19 30 days by June 5. However, some of the requests
20 potentially could require us to revise our
21 construction modeling for air emissions. That
22 would take longer than the 30 days.

23 Again, it is our -- we will endeavor to
24 meet the June 5, but we wanted to go ahead and
25 request the extension in case it is necessary.

1 HEARING OFFICER VALKOSKY: Okay. How
2 about the objection. Is that still standing?

3 MS. STRACHAN: In terms of the
4 objection, we had a discussion on that particular
5 date of request during our workshop today and have
6 a better understanding of what the staff is
7 looking for, and we will be able to provide the
8 staff the information that they need.

9 HEARING OFFICER VALKOSKY: Dr. Reede or
10 Mr. Westerfield, based on that, I assume the
11 Committee will not be expecting a motion to compel
12 from staff, is that correct?

13 DR. REEDE: That's correct.

14 HEARING OFFICER VALKOSKY: Secondly,
15 what is the affect, if any, of the potential delay
16 upon the staff's proposed schedule?

17 DR. REEDE: If there were to be a delay,
18 it would be a day for day delay in our issuance of
19 our draft initial study.

20 HEARING OFFICER VALKOSKY: The delay of
21 the issuance of the draft initial study would, I
22 assume, result in a day for day delay in the
23 issuance of the final initial study. Is that
24 correct?

25 DR. REEDE: That is correct.

1 HEARING OFFICER VALKOSKY: Was it fair
2 to summarize that is an open question exactly how
3 long that will take at this point?

4 DR. REEDE: Correct, but on the other
5 end of it, you could always issue the decision
6 more quickly to make up for that.

7 HEARING OFFICER VALKOSKY: As a
8 theoretical possibility, that is very interesting,
9 very interesting, theoretical possibility.

10 PRESIDING MEMBER BOYD: I'm interested
11 in that scenario because I note that on the 4th of
12 September I am supposed to leave the country for
13 three weeks. If you could do it by the 3rd of
14 September, it would be helpful, but anyway.

15 HEARING OFFICER VALKOSKY: We may be
16 leaving the country together.

17 PRESIDING MEMBER BOYD: I'm not inviting
18 you on my vacation.

19 (Laughter.)

20 COMMISSIONER PERNELL: I think that's
21 showing flexibility on a presiding member.

22 HEARING OFFICER VALKOSKY: Flexibility
23 is the key word. I also noticed in the proposed
24 schedule, both by staff and by applicant, there is
25 no provision for a pre-hearing conference. Is

1 this intentional or is this based on a belief the
2 pre-hearing conference will not be necessary, or
3 is it an inadvertent omission?

4 DR. REEDE: No, it is not an inadvertent
5 omission, Hearing Officer Valkosky. What we
6 thought may occur was that a pre-hearing
7 conference could be scheduled for shortly after
8 the initial final study is done, but there is only
9 about a week in between the final study being
10 issued and the start of hearings.

11 Under the rules and regulations, if we
12 are going to -- it says a hearing shall begin no
13 later than 100 days from the date of filing of the
14 SPPE, and taking everything else in to account, a
15 pre-hearing conference would virtually have to be
16 on the day after the final study was issued.

17 As we get closer to writing it, you, at
18 your liberty, can say okay, we'll have a pre-
19 hearing conference on such and such a day, we'll
20 have the hearings a week later.

21 HEARING OFFICER VALKOSKY: I understand
22 that. I guess my basic question is, is staff
23 recommending that there be a pre-hearing
24 conference or not be a pre-hearing conference?

25 DR. REEDE: Staff doesn't take a

1 position on it at this point in time.

2 HEARING OFFICER VALKOSKY: Ms. Warren,
3 how about applicant or Ms. Strachan?

4 MS. STRACHAN: I think from our end it
5 was more of an inadvertent omission, and I have to
6 admit in putting the schedule together, I was
7 following closely along with what Mr. Reede did
8 and focusing on the 100 days and the 135 days.
9 Clearly, we are not opposed to the idea of having
10 a pre-hearing conference.

11 HEARING OFFICER VALKOSKY: Thank you.

12 COMMISSIONER PERNELL: Are you
13 requesting one?

14 MS. STRACHAN: Not at this time.

15 HEARING OFFICER VALKOSKY: Dr. Reede,
16 could you explain the benefit of the Committee,
17 the role of the Air District in staff's analysis,
18 and how any delays that the Air District may or
19 may not affect production of the initial study?

20 DR. REEDE: The Air District will be
21 issuing an ATC, Authority to Construct, at some
22 point in time. They will be using, to a certain
23 degree, our CEQA document. The sooner we can get
24 our CEQA document out, the sooner they can issue
25 that authority to construct.

1 At this time, based upon the track
2 record of many air districts throughout the state,
3 I don't see where we will be getting the work
4 product and the schedule we need, so there is
5 always that potential for delay.

6 HEARING OFFICER VALKOSKY: Rephrase what
7 you are saying. Are you saying that staff will
8 need work product from the Air District before it
9 can release its initial study. Again, similar
10 to --

11 DR. REEDE: No, before you can issue
12 your decision, we have to issue our initial study,
13 and they will be using our initial study in
14 issuing their documents. In this particular case,
15 we come first. However, exchanges between us and
16 the air district are sometimes slower than we
17 would like. Anytime you have to deal with the Air
18 District in California, we have had problems in
19 getting work product out of them is what I am
20 saying.

21 There is always the potential for delay
22 when you have to deal with an air district.

23 HEARING OFFICER VALKOSKY: Okay, I guess
24 what I am saying is are we in a situation
25 analogous to an AFC situation where staff --

1 DR. REEDE: No.

2 HEARING OFFICER VALKOSKY: -- would want
3 a preliminary determination of compliance in
4 advance? We are not. Okay. Thank you. How
5 about in so far as the water board is concerned?

6 DR. REEDE: We are attempting to work
7 closely with the Water Board and the applicant to
8 insure that any delay would be minimized.
9 However, that potential still exists because of
10 the need for the report of waste water discharge.

11 HEARING OFFICER VALKOSKY: Is the report
12 of waste water discharge required in order for
13 staff to issue an initial study or for the
14 Committee to issue a decision?

15 DR. REEDE: No.

16 HEARING OFFICER VALKOSKY: It is not.
17 Okay. The delay would stem from exactly what?

18 DR. REEDE: The delay would stem from
19 determining whether or not there's going to be a
20 significant impact based upon their discharges.
21 The document we have from the water quality -- the
22 Regional Water Quality Control Board is right now
23 saying there is significant impact.

24 HEARING OFFICER VALKOSKY: Exactly.

25 DR. REEDE: That there would be

1 significant impacts. We need to get that
2 clarified as quickly as possible whether there
3 will be or there won't be.

4 HEARING OFFICER VALKOSKY: Right, in
5 other words, before --

6 DR REEDE: If there is the potential
7 that there will be, we need to know or we need to
8 make -- we need to develop mitigation that would
9 bring it down below the level of significance or
10 we need to work with the applicant so that they
11 can offer an alternate solution, such as zero
12 liquid discharge.

13 HEARING OFFICER VALKOSKY: I understand,
14 and those mitigation measures would be identified
15 in your initial study, would they not?

16 DR. REEDE: Yes, they would.

17 HEARING OFFICER VALKOSKY: Therefore, is
18 it not fair to say that the release of the initial
19 study depends upon resolution of these matters
20 with the Water Board?

21 DR. REEDE: Correct, timely resolution
22 with the Water Board.

23 HEARING OFFICER VALKOSKY: Okay. We'll
24 let that one go for now. Does the applicant have
25 anything to add to this discussion. I don't want

1 you to think we are ignoring you?

2 MS. STRACHAN: Not at this time. We are
3 aware of the issues with the Regional Board, and
4 we are aware of the short schedule with the SPPE,
5 and it's our intent to get this resolved as
6 quickly as possible.

7 HEARING OFFICER VALKOSKY: Thank you.
8 Anything else?

9 COMMISSIONER PERNELL: My question was,
10 as for the amount of clarification when we talked
11 earlier about the briefs, do you anticipate that
12 adding time to the schedule or would that be
13 running concurrently with other issues?

14 MS. STRACHAN: Are you speaking to the
15 briefs that were talked about earlier in the
16 hearing?

17 COMMISSIONER PERNELL: Right.

18 MS. STRACHAN: I would think that would
19 be concurrent. That wouldn't be something that
20 would affect our --

21 HEARING OFFICER VALKOSKY: Yeah, part of
22 that is certainly something I should have
23 clarified. I believe the attorneys said two
24 weeks. In other words, May 30, is enough time to
25 submit the briefs, certainly --

1 COMMISSIONER PERNELL: I guess my
2 question was or hope is that it wouldn't set the
3 schedule back any, they can do that as other
4 activities are going on.

5 MS. STRACHAN: Absolutely.

6 HEARING OFFICER VALKOSKY: I think, yes,
7 that's correct. Is there anything else from
8 either the parties or anyone in attendance here
9 today?

10 PRESIDING MEMBER BOYD: That's fine.

11 HEARING OFFICER VALKOSKY: Okay. With
12 that--

13 MR. WESTERFIELD: Yes, I might have one
14 question --

15 HEARING OFFICER VALKOSKY: I'm sorry,
16 Mr. Westerfield, sure.

17 MR. WESTERFIELD: -- now that I have
18 thought about it. Is there any deadline in this
19 proceeding for interested members of the public to
20 become parties to this proceeding? In some of our
21 other processes, sometimes there is a deadline?

22 HEARING OFFICER VALKOSKY: As a
23 practical matter, if you are not a party before
24 the pre-hearing conference, you are not going to
25 be an affective party. That's a universal rule.

1 I think the other part of the universal rule is
2 that if you want to become a party, the sooner the
3 better because, frankly, if you delay, you will be
4 playing catch up. Committee is very unlikely to
5 delay the schedule because of that. Anything
6 else?

7 MR. WESTERFIELD: Thank you for that
8 clarification.

9 HEARING OFFICER VALKOSKY: With that,
10 the Committee thanks the parties for their
11 participation. We are adjourned.

12 (Whereupon, at 3:45 p.m. the public
13 hearing was adjourned.)

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CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Public Hearing; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
public hearing, nor in any way interested in
outcome of said public hearing.

IN WITNESS WHEREOF, I have hereunto set
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